

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

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FIRST GENERAL COUNSEL'S REPORT

MUR: 6820
COMPLAINT FILED: May 15, 2014
DATE OF NOTIFICATION: May 22, 2014
LAST RESPONSE: June 9, 2014
ACTIVATED: July 7, 2014

ELECTION CYCLE: 2014
Earliest SOL: June 10, 2018
Latest SOL: April 1, 2019

COMPLAINANT:

Ryan M. Reynolds

RESPONDENTS:

Earl LeRoy ("Buddy") Carter
Buddy Carter for Congress and Carlton H. Hodges
in his official capacity as treasurer
Friends of Buddy Carter for Senate and Mark Smith
in his official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30103(b)¹
52 U.S.C. § 30125(e)
11 C.F.R. § 110.3(d)
11 C.F.R. § 300.61
11 C.F.R. § 300.62

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint makes three allegations against Congressional candidate Buddy Carter, who was also a Georgia State Senator at the time the complaint was filed. First, that Carter impermissibly used funds from his state campaign committee to pay salaries for two of his federal campaign staff and fees of a consultant to the federal campaign; second, that the state

¹ On September 1, 2014, the Federal Election Campaign Act of 1971, as amended (the "Act"), was transferred from Title 2 to new Title 52 of the United States Code.

1 campaign committee made an impermissible \$1,000 contribution to Carter's federal campaign
2 committee; and third, that the state campaign committee improperly accepted contributions
3 (including some from federally prohibited sources) after Carter became a federal candidate.²
4 Respondents submitted a joint response denying these allegations and requesting dismissal of the
5 complaint.³ As discussed below, we recommend that the Commission dismiss each of the
6 allegations.

7 II. FACTUAL AND LEGAL ANALYSIS

8 A. Background

9 On May 6, 2013, then-sitting Georgia State Senator Earl LeRoy ("Buddy") Carter
10 announced his candidacy for the U.S. House of Representatives in Georgia's 1st Congressional
11 District.⁴ Carter designated Buddy Carter for Congress for Congress ("Federal Committee") as
12 his principal campaign committee for the congressional election.⁵ Carter secured the Republican
13 nomination on July 22, 2014 by winning a run-off election that was held after none of the six
14 candidates running in the primary election received at least 50 percent of the vote. Once he
15 received the nomination, Carter's seat in the state senate was declared vacant, as required by

² Compl. at 1-3 (May 15, 2014).

³ Resp. at 1 (June 9, 2014).

⁴ See Buddy Carter for Congress Press Release, *Sen. Buddy Carter to Announce Campaign for Congress* (May 6, 2013), available at <http://www.buddycarterforcongress.com/campaign-for-congress>. Carter had previously filed his Statement of Candidacy on April 24, 2014.

⁵ FEC Form 1 (Statement of Organization) (Apr. 24, 2013); FEC Form 2 (Statement of Candidacy) (Apr. 24, 2013).

1 Georgia state law.⁶

2 **B. State Committee Payments for Staff and Consulting Services**

3 The Complaint alleges that Friends of Buddy Carter for Senate ("State Committee") paid
4 over \$12,000 to two federal committee staffers and a political consulting firm for services
5 performed on behalf of Carter's federal campaign.⁷ Under the Act, a federal candidate, the agent
6 of a candidate, or an entity directly or indirectly established, financed, maintained, or controlled
7 by, or acting on behalf of a candidate, shall not "solicit, receive, direct, transfer, or spend funds
8 in connection with an election for Federal office" unless the funds are subject to the "limitations,
9 prohibitions, and reporting requirements."⁸ Moreover, Commission regulations prohibit the
10 transfer of funds or assets from a candidate's nonfederal campaign committee to his or her
11 federal campaign committee.⁹ Thus, if the State Committee disbursed approximately \$12,000 to
12 pay for salaries or consultant fees for services provided to the Federal Committee, those
13 payments constitute improper transfers of funds or assets to the Federal Committee.

⁶ See <https://admin.enr.clarityelections.com/files/GA/52176/137603/en/summary.html?pv=true>. Article II, Section 2, Paragraph V of the Georgia Constitution states that "[t]he office of any state, county, or municipal elected official shall be declared vacant upon such elected official qualifying, in a general primary or general election, or special primary or special election, for another state, county, or municipal elective office or qualifying for the House of Representatives or the Senate of the United States if the term of the office for which such official is qualifying for begins more than 30 days prior to the expiration of such official's present term of office."

⁷ Compl. at 2.

⁸ 52 U.S.C. 30125(e) (formerly 2 U.S.C. § 441i(e)(1)(A)).

⁹ 11 C.F.R. § 110.3(d) (transfers of funds or assets from a candidate's campaign committee or account for a nonfederal election to his or her principal campaign committee or other authorized committee for a federal election are prohibited); Transfers of Funds from State to Federal Campaigns, 58 Fed. Reg. 3474 (Jan. 8, 1993) (Explanation and Justification). See e.g., MUR 6267 (Paton For Senate) (Paton's federal committee received prohibited transfer of funds when Paton's state senate committee paid for polling and a survey benefiting his federal campaign); MUR 5646 (Cohen for New Hampshire) (Cohen's federal committee received prohibited transfer of funds when Cohen's state committee paid for start-up expenses related to his U.S. Senate campaign); and MUR 5426 (Dale Schultz for Congress) (Schultz's federal committee received prohibited transfer of funds when the Schultz state committee paid for expenses that the candidate incurred in connection with his federal election).

1 1. Staff Salaries

2 The Complaint alleges that the State Committee paid the salaries of two members of
3 Carter's federal campaign staff, Sarah Vardian and Phillip Fordham.¹⁰ In support of this
4 allegation, the Complaint points to federal and state disclosure reports demonstrating that staffer
5 Sarah Vardian received a salary from both campaigns simultaneously and that staffer Phillip
6 Fordham was reimbursed for expenses by the Federal Committee while on the State Committee's
7 payroll.¹¹ The Complaint surmises from this information that these staffers were in fact working
8 for the federal campaign while being paid by the State Committee.

9 The Response concedes that Fordham and Vardian provided services to Carter both in his
10 role as a state senator and as a federal candidate, but asserts that the services were "carefully
11 segregated" and that they were compensated by the "appropriate committee."¹² More
12 specifically, Respondents explain that Fordham served as a "travel assistant" to Carter and the
13 State Committee, assisting Carter with his "official duties" and continuing obligations as a state
14 senator by drafting letters to constituents for Carter's signature, providing constituent services,
15 and performing "research."¹³ The Response contends that Fordham began working for the
16 Federal Committee after Carter announced his congressional candidacy, transitioning "from one

¹⁰ Compl. at 2.

¹¹ *Id.*

¹² Resp. at 2.

¹³ Resp. at 1-3. The Response notes that under Georgia law, a state officeholder is permitted to use campaign funds to defray "ordinary and necessary" costs associated with the fulfillment or retention of holding elective office and that Vardian and Fordham were providing services to Carter pursuant to this provision. *See* O.C.G.A. § 21-5-33(a).

1 campaign to another," and was paid for this work "solely by the Federal Committee."¹⁴ Further,
2 the Response states that Fordham was "instructed" to keep his federal and state campaign duties
3 separate and maintain "hourly logs" to indicate how many hours were devoted to each entity.¹⁵
4 Vardian, according to the Response, served as an "administrative assistant" to Carter and the
5 State Committee in connection with Carter's official position and continuing obligations as a
6 state senator.¹⁶ Respondents state that, like Fordham, Vardian joined the federal campaign after
7 Carter transitioned to the "new" campaign and was instructed to keep her work for the two
8 campaigns "segregated."¹⁷

9 With respect to these salaries, we recommend that the Commission exercise its
10 prosecutorial discretion to dismiss this allegation. The Response explains that both Fordham and
11 Vardian were performing administrative services for Carter's state legislative offices and that
12 this activity can be funded, under Georgia law, with State Committee funds. While information
13 shows that Fordham apparently attended one Federal Committee fundraiser and received a
14 \$49.10 reimbursement from the Federal Committee for fundraising supplies while still being
15 paid a salary by the State Committee, this does not, by itself, provide enough to investigate

¹⁴ *Id.*

¹⁵ *Id.* The response, which was not sworn, did not include these "hourly logs" or provide any other supporting documentation showing the segregation of costs.

¹⁶ Resp. at 2-3. The State Committee's disclosure reports indicate that it made eleven disbursements, totaling \$1,952.50, to Vardian between September 24, 2013 and February 25, 2014. Vardian's occupation in these reports is described as "administrative assistant" and the purpose of the disbursements was "a) administrative assistance" and "b) Friends of Buddy Carter." The Response states that Vardian's duties, were "not in connection with any federal or non-federal election," and included drafting letters to constituents for Carter's signature, interacting with constituents and performing research. *Id.* at 3.

¹⁷ It appears that Vardian began working for the Federal Committee in June 2013. The Federal Committee's first disbursement to Vardian for "payroll" was on July 3, 2013. The Federal Committee's disbursements to Vardian averaged \$1,886 per month, with the totals ranging from a high of \$1,996.00 (July 2013) to a low of \$705.00 (November 2013.) See also Sarah Jayne Vardian's LinkedIn Profile, LinkedIn at <http://www.linkedin.com/pub/sarah-jayne-vardian/9/28/15b>. ("Vardian LinkedIn Profile") (showing that Vardian joined Carter's federal campaign as a "coordinator" in June 2013).

1 whether the State Committee's committee salary payments subsidized work for the Federal
2 Committee.¹⁸ Similarly, the Complaint appears to presume that Vardian's status as a shared
3 employee between the State Committee and Federal Committee is *per se* indicative of an effort
4 by the State Committee to subsidize the Federal Committee. Without more, however, the
5 allegation appears speculative and does not provide sufficient information to investigate whether
6 the State Committee subsidized work that Vardian did for the Federal Committee by improperly
7 allocating salary payments between the two committees.¹⁹

8 We, therefore, recommend that the Commission dismiss the allegations that Respondents
9 violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)) and 11 C.F.R. § 110.3(d) by
10 transferring funds or assets to the Federal Committee through salary payments to Sarah Vardian
11 and Phillip Fordham.²⁰

¹⁸ See Compl. Ex. D (showing State Committee's salary payments to Fordham through August 28, 2013); Buddy Carter for Congress, 2013 October Quarterly report at 77 (showing Federal Committee reimbursement of \$49.10 to Fordham for fundraising supplies on July 11, 2013).

¹⁹ We note, however, that Respondents submitted no documentation supporting its assertions that the work Fordham and Vardian did for each committee was logged to ensure proper allocation of salary payments. Further, the Complaint includes a copy of Vardian's LinkedIn Profile, which lists her work with the Federal Committee but makes no mention of an association with the State Committee. Similarly Fordham's LinkedIn profile does not indicate that he was employed by the State Committee or Carter between June 2013 and August 2013 when he was received salary payments from the State Committee. See Vardian LinkedIn Profile and Fordham LinkedIn Profile. Nevertheless, the probative value of the self styled LinkedIn profiles is limited absent additional factual information supporting the complaint's allegations.

²⁰ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

2. Simons & Associates

The Complaint alleges that the State Committee paid a political consulting firm, Simons & Associates, to provide services to the Federal Committee.²¹ The complaint points to a May 2, 2013 press article asserting that Carter had hired political consultant David Simons to assist with the federal campaign.²² The article notes that the Federal Committee made only one disbursement to Simons & Associates for "invitations," and that disbursement was not made until November 20, 2013, seven months after Carter reportedly hired Simons. The Complaint also cites the State Committee's disclosure reports, which show periodic payments to Simons by the State Committee from January 2013 through March 2014, as specified below.²³ From this information, the Complaint infers that the State Committee's payments were for services provided to the Federal Committee.

State Committee Disbursements to Simons & Associates

Date	Amount	Purpose
07/01/2013	\$250	Consulting fees
11/01/2013	\$250	Consulting fees
11/01/2013	\$500	Consulting fees
11/08/2013	\$250	Consulting fees
12/24/2013	\$500	Consulting fees
01/12/2013	\$500	Consulting fees
01/29/2014	\$717.65	St. Patrick's Day Parade
03/10/2014	\$1,000	Consulting

²¹ Compl. at 2. According to its website, Simons & Associates is part of the Simons Political Group, LLC. The website states that Simons & Associates provides government and business communications for non-profits and small businesses. Simons Political Group is a full-service political consultancy. David Simons is the company's president. See <http://www.simonspoliticalgroup.com/>.

²² *Id.*, Ex. F (Sean Horgan, Kingston to Make Senate Race Official, SAVANNAH MORNING NEWS, May 2, 2013 at <http://savannahnow.com/news/2013-05-02/kingston-make-senate-race-official>).

²³ See also Russ Bynum, *Jack Kingston Plans Statewide Events Amid Senate Talk*, ATHENS BANNER HERALD (Apr. 30, 2013) at <http://onlineathens.com/local-news/2013-04-30/jack-kingston-plans>. This news article describes Simons as "a political consultant for state Sen. Buddy Carter."

1 Respondents deny the allegation that the State Committee paid for services performed by
2 Simon & Associates for the Federal Committee.²⁴ According to the Response, David Simons of
3 Simons & Associates is a "long time consultant to the State Committee," who has been on a
4 "retainer of \$500 per quarter (\$2,000/per year)" for several years under a "long-standing
5 agreement." Respondents state that Simons performed a only a "small amount" of work for the
6 Federal Committee in late 2013, including printing invitations for which he was paid \$1,812.43
7 by the Federal Committee.²⁵ Further, the Response states that because Simons' services on
8 behalf of the two committees were "carefully" segregated, he was always compensated by the
9 appropriate committee for those services.²⁶

10 With respect to the payments for consulting services, we recommend that the
11 Commission exercise its prosecutorial discretion to dismiss this allegation. The Complaint
12 points to information showing that Carter may have hired Simons to work for his federal
13 campaign as early as April 2013.²⁷ The Federal Committee, however, reported no disbursements
14 to Simons & Associates until November 2013, and even then it was only a single disbursement
15 for a discrete project described as "printed invitations." Further, the State Committee *did* make
16 disbursements to Simons & Associates for "consulting fees" during this time, as detailed in the
17 chart above. And Respondents provide no specific description of the services Simons &

²⁴ Resp. at 3.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Compl. Ex. F (Sean Horgan, Kingston to Make Senate Race Official, SAVANNAH MORNING NEWS, May 2, 2013 at <http://savannahnow.com/news/2013-05-02/kingston-make-senate-race-official>.); See Russ Bynum, Jack Kingston Plans Statewide Events Amid Senate Talk, ATHENS BANNER-HERALD (Apr. 30, 2013) at <http://onlineathens.com/local-news/2013-04-30/jack-kingston-plans>.

1 Associates provided to the State Committee, nor do they address the address the press report
2 identifying Simons as Carter's federal campaign consultant as early as May 2013.²⁸

3 Respondents, however, directly deny the allegation, asserting that the payments made by
4 the State Committee to Simons were for services provided to the State Committee at a time when
5 Carter was a State Senator and had ongoing official duties.²⁹ State disclosure reports corroborate
6 that Simon & Associates had a longstanding vendor relationship with the State Committee dating
7 back to 2007.³⁰ Respondents assert that the payments to Simons noted in the Complaint were
8 made pursuant to "long-standing agreement" with Simons that called for a "retainer of \$500 per
9 quarter (\$2,000/per year)."³¹ The State Committee's disclosure reports are consistent with this
10 explanation — since January 1, 2012, the State Committee has been paying consulting fees to the
11 firm on a regular basis in amounts that range from \$250 to \$1,000.³²

12 Without more direct evidence supporting the inferences in the Complaint, the allegation
13 appears speculative and, in any event, regards payment totaling \$1,750. Thus, we do not think it

²⁸ Based on the State Committee's disclosure reports, Simons & Associates typically provided services such as fundraising services and consulting during elections. *See* Friends of Buddy Carter — Senate, 2010 December 31st Campaign Contribution Disclosure Report; , 2011 December 31st Campaign Contribution Disclosure Report; 2012 March 31st Campaign Contribution Disclosure Report; 2012 June 30th Campaign Contribution Disclosure Report; 2013 June 30th Campaign Contribution Disclosure Report; 2013 December 31st Campaign Contribution Disclosure Report; 2014 March 31st Campaign Contribution Disclosure Report.

²⁹ Resp. at 3.

³⁰ Simons & Associates also provided consulting and fundraising services to Carter when he was a candidate for, and served in, the office of State Representative. *See* Friends of Buddy Carter — House, 2007 December 31st Campaign Contribution Disclosure Report; 2008 June 30th Campaign Contribution Disclosure Report; 2008 September 30th Campaign Contribution Disclosure Report; 2008 October 25th Campaign Contribution Disclosure Report; and, 2009 June 30th Campaign Contribution Disclosure Report. Between 2010 and March of this year, the State Committee disbursed funds totaling \$17,336.76 to the consulting firm for campaign consulting, fundraising, and unspecified services in connection with the annual St. Patrick's Day parade.

³¹ Resp. at 3.

³² The last disbursement for consulting fees (\$1,000) was on March 10, 2014. The State Committee also paid Simons & Associates \$3,209.91 on April 27, 2012 for "consulting fees" and "fundraising invitations." *See* 2012 October 25th Campaign Contribution Disclosure Report.

1 would be a prudent use of Commission resources to pursue this allegation any further. We,
2 therefore, recommend that the Commission exercise its prosecutorial discretion to dismiss the
3 allegation that Respondents violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e))
4 and 11 C.F.R. § 110.3(d) by transferring funds or assets to the Federal Committee through
5 payments to Simons & Associates.³³

6 **C. Transfer of Non-federal Funds from the State Committee to the Federal**
7 **Committee**

8
9 The State Committee made a \$1,000 contribution to the Federal Committee on March 31,
10 2014.³⁴ The Complaint alleges that this contribution violates both the prohibition on transfers
11 between the federal and non-federal campaign committees of the same candidate and the
12 prohibition against the receipt, transfer, or disbursement of funds in connection with a federal
13 election that are not subject to the limitations, prohibitions and reporting requirements of the
14 Act.³⁵ The Response asserts that this contribution was permissible under the Act because federal
15 committees are permitted to accept contributions of up to \$1,000 from unregistered political
16 committees, so long as the committee is able to demonstrate through reasonable accounting
17 methods that it had sufficient federally acceptable funds to cover the amount of the
18 contribution.³⁶ And, it notes that on March 31, 2013, its cash on hand was over \$30,000 and

³³ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

³⁴ Compl. Ex. 1. (Friends of Buddy Carter – Senate, 2014 March 31st Campaign Contribution Disclosure report; Buddy Carter for Congress, 2013 April Quarterly Report.

³⁵ Compl. at 3; 11 C.F.R. § 110.3(d).

³⁶ Resp. at 4.

1 claims that this amount included sufficient federally permissible funds from individuals to cover
2 the \$1,000 to the State Committee.³⁷

3 The Act does not permit a federal candidate, the agent of a candidate, or an entity directly
4 or indirectly established, financed, maintained, or controlled by, or acting on behalf of a
5 candidate, to "solicit, receive, direct, transfer, or spend funds in connection with an election for
6 Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting
7 requirements."³⁸ Moreover, Commission regulations prohibit the transfer of funds or assets from
8 a candidate's nonfederal campaign committee to his or her federal campaign committee.³⁹

9 Nevertheless, because the amount at issue is *de minimis*, we recommend that the
10 Commission exercise its prosecutorial discretion and dismiss the allegation that the State
11 Committee violated 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)); and
12 11 C.F.R. § 110.3(d) by making impermissible transfers to the Federal Committee, or that the
13 Federal Committee violated 52 U.S.C. § 52 U.S.C. 30125(e)(1)(A) (formerly 2 U.S.C. §
14 441i(e)(1)(A)); and 11 C.F.R. § 110.3(d) by accepting impermissible transfers from the State
15 Committee, or that Earl LeRoy ("Buddy") Carter violated 52 U.S.C. § 52 U.S.C. 30125(e)(1)(A)
16 (formerly 2 U.S.C. § 441i(e)(1)(A)) by knowingly accepting contributions from prohibited
17 sources and 11 C.F.R. § 110.3(d) by accepting impermissible transfers.⁴⁰

³⁷ *Id.*

³⁸ 52 U.S.C. § 30125(e)(1)(A) (formerly 2 U.S.C. § 441i(e)(1)(A)). The Act also prohibits the making or receipt of direct contributions using corporate funds. 52 U.S.C. § 301182(b) (formerly 2 U.S.C. § 441b)).

³⁹ 11 C.F.R. § 110.3(d).

⁴⁰ *See Heckler v. Chaney*, 470 U.S. 821 (1985).

D. The State Committee's Receipt of Funds After Carter's Announcement of Federal Candidacy

The Complaint alleges that Carter and the State Committee violated the Act by improperly accepting several federally prohibited contributions after Carter became a federal candidate because the Act prohibits federal candidates from accepting any contributions or disbursing any funds that do not comply with federal limits.⁴¹ In support, the Complaint attached several pages from three of the State Committee's disclosure reports indicating that, between June 13, 2013 and January 2014, the campaign accepted contributions totaling \$3,250 from four corporations.⁴² Further, on April 1, 2014, the State Committee accepted one additional contribution in the amount of \$500.⁴³

The Response denies that the State Committee's receipt of contributions after Carter announced his congressional candidacy violated the Act.⁴⁴ In addition to asserting that Respondents were not actively raising contributions after Carter's announcement, the Response contends that any contributions received during that time period have not been spent in connection with any election or for any public communication.⁴⁵ According to the Response, Carter was planning to run for re-election to the Georgia Senate until he announced his candidacy for Congress in the Spring of 2013.⁴⁶ Respondents admit that the State Committee

⁴¹ Compl. at 1-2. See also 52 U.S.C. 30125(e)(A) and (B); 11 C.F.R. § 300.61, 300.62.

⁴² *Id.*, Ex. A.

⁴³ The additional contribution of \$500 was made by DeVry University on April 1, 2014.

⁴⁴ Resp. at 2. The Respondents requested that the Commission find no reason to believe they violated the Act, or "at worst," dismiss the allegation in light of the *de minimis* amount involved. *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

1 received four contributions totaling \$3,250 in the seven months following Carter's
2 announcement, but claims these funds were not solicited by Carter or the State Committee.⁴⁷
3 The Response asserts that Carter and the State Committee abided by the state prohibition against
4 accepting contributions during the legislative session and, furthermore, did not solicit any
5 contributions between the General Assembly's adjournment and the date Carter became a federal
6 candidate and contends that its receipt of these "unsolicited" contributions is "understandable" as
7 Carter was "planning to run for re-election."⁴⁸

8 Under the Act, a federal candidate, the agent of a candidate, or an entity directly or
9 indirectly established, financed, maintained, or controlled by, or acting on behalf of a candidate,
10 shall not "solicit, receive, direct, transfer, or spend funds in connection with an election for
11 Federal office" unless the funds are subject to the "limitations, prohibitions, and reporting
12 requirements."⁴⁹ The Act also prohibits a Federal candidate or officeholder, or their agents, from
13 soliciting, receiving, directing, transferring, spending or disbursing funds in connection with any
14 election other than for Federal office, unless the funds are subject to the limitations, prohibitions,
15 and reporting requirements of the Act.⁵⁰

16 The Act stipulates, however, that these prohibitions do not apply to the solicitation,
17 receipt, or spending of funds by an individual who is or was also a candidate for a State or local
18 office if the solicitation, receipt, or spending is permitted under State law and refers only to that

⁴⁷ Resp. at 2.

⁴⁸ *Id.*

⁴⁹ 52 U.S.C. § 30125(e)(1)(A.) (formerly 2 U.S.C. § 441i(e)(1)(A)); 11 C.F.R. § 300.61.

⁵⁰ 52 U.S.C. § 30125(e)(1)(B) (formerly 2 U.S.C. § 441i(e)(1)(B)); 11 C.F.R. § 300.62.

1 candidate, or to any other candidate for the state or local office sought that by candidate.⁵¹ Thus,
2 the question is whether this "state law" exception applies to the State Committee's receipt of
3 contributions or disbursement of non-federal funds.

4 Georgia law permits individuals, corporations, political committee and political parties
5 to contribute up to \$2,500 to primary candidates for the General Assembly.⁵² Members of the
6 General Assembly and their campaign committees are prohibited under state law from soliciting
7 contributions while in session, which in 2013 began on January 14, 2013 and ended on March
8 20, 2013.⁵³ Although Carter vacated his state senate seat once he won the Republican primary
9 run-off election on July 22, 2014, he is not required to terminate his state campaign committee.⁵⁴

10 Respondents claim that neither Carter nor the State Committee solicited the corporate
11 contributions the campaign received following his announcement that he was running for
12 Congress, insisting that the contributions were entirely "unsolicited" and likely made to support

⁵¹ 52 U.S.C. § 30125(e)(2) (formerly 441i(e)(2)).

⁵² See O.G.G.A. § 21-5-41(b) & (k) (2010); *see also* Georgia Government Transparency and Campaign Finance Commission at <http://www.ethics.georgia.gov/>.

⁵³ See Georgia Government Transparency and Campaign Finance Act (Effective January 1, 2014), Article 2 § 21-5-35(a) at <http://ethics.ga.gov/wp-content/uploads/2011/08/CampaignFinance-Act2011FINAL.pdf>. See also Campaign Finance Law 98: Chart 2-A: Contribution and Solicitation Limitations at <http://www.fec.gov/pubrec/cfl/cf198/chart2a.html>. Between January 2013 and March 2014, the State Committee accepted contributions totaling \$13,250, including over \$7,250 in contributions from corporations.

⁵⁴ Under Georgia law, campaign committees file a Final Report and Termination Statement when 1) the candidate does not intend to run in future elections for that office at the point they leave office or within ten day of the committee's dissolution; or, 2) the committee has a zero balance and a zero balance for indebtedness. A candidate cannot file a Final Report or Termination Statement while still in office. Georgia Government Finance Transparency and Campaign Finance Commission at <http://ethics.ga.gov/2011/04/who-files-final-report-and-termination-statement/>.

1 Carter's re-election to the state senate.⁵⁵ An examination of the relevant disclosure reports does
2 not indicate that the State Committee has engaged in any fundraising activity since Carter
3 declared his federal candidacy, and four out of the five corporations that contributed to the State
4 Committee have done so on a fairly regular basis since Carter was elected to the state senate in
5 2009 suggesting that the contributions at issue may have been unsolicited and made in
6 connection with Carter's status as an individual who was expected to run for re-election to the
7 state senate.⁵⁶

8 Thus, it appears that the "state law" exception outlined in Section 30125(e)(2) (formerly
9 Section 441i(e)(2)) may apply to the State Committee's receipt of these corporate contributions.
10 Given the amount at issue, \$3,250, it would not be a prudent use of Commission resources to
11 conduct an investigation to confirm that the funds at issue were not solicited by the State

⁵⁵ Resp. at 2.

⁵⁶ The State Committee has accepted contributions from numerous corporations since 2009 when Carter was first elected to the state senate. Both Consolidated Utilities and MAG Mutual Insurance Company have contributed to the State Committee on five occasions since 2009. The American Pharmacy Cooperative has contributed to the State Committee on four occasions since 2009 and Walgreens has contributed to the campaign three times since 2011. *Id.* at 2009 June 30th Campaign Contribution Disclosure Report; 2009 Special Campaign Contribution Disclosure Report; 2010 June 30th Campaign Contribution Disclosure Report; 2010 September 30th Campaign Contribution Disclosure Report; 2010 October 25th Campaign Contribution Disclosure Report; 2010 December 31st Campaign Contribution Disclosure Report; 2011 December 31st Campaign Contribution Disclosure Report; 2012 June 30th Campaign Contribution Disclosure Report; 2012 September 30th Campaign Contribution Disclosure Report; 2012 October 25th Campaign Contribution Disclosure Report; 2013 June 30th Campaign Contribution Disclosure Report; 2013 December 31st Campaign Contribution Disclosure Report; 2014 January 31st Campaign Contribution Disclosure Report; and, 2014 June 30th Campaign Contribution Disclosure Report.

1 Committee and that the contributions were made to support Carter's re-election to the state
2 senate.⁵⁷ We, therefore, recommend that the Commission dismiss the allegation that the State
3 Committee and Carter violated 52 U.S.C. § 30125(e)(1)(B) (formerly 2 U.S.C. § 441i(e)(1)(B))
4 by raising impermissible funds in connection with a non-federal election.⁵⁸

5 III. RECOMMENDATIONS


- 6 1. Dismiss the allegation that Respondents violated 52 U.S.C. § 30125(e)(1)(A)
7 (formerly 2 U.S.C. § 441i(e)(A)); and 11 C.F.R. § 110.3(d) by transferring state
8 funds or assets to the Federal Committee through payments to campaign staff and
9 a consulting firm.
- 10 2. Dismiss the allegation that Friends of Buddy Carter for Senate and Mark Smith in
11 his official capacity as treasurer (State Committee) violated 52 U.S.C.
12 § 30125(e)(1)(A)) (formerly 2 U.S.C. § 441i(e)(A)); and 11 C.F.R. § 110.3(d) by
13 making impermissible transfers to Buddy Carter for Congress.
- 14 3. Dismiss the allegation that Buddy Carter for Congress and Carlton H. Hodges in
15 his official capacity as treasurer violated 52 U.S.C. § 30125(e)(1)(A) (formerly
16 2 U.S.C. § 441i(e)(1)(A); and 11 C.F.R. § 110.3(d) by accepting impermissible
17 transfers from Friends of Buddy Carter for Senate.
- 18 4. Dismiss the allegation that Friends of Buddy Carter and Mark Smith in his official
19 capacity as treasurer and Earl LeRoy ("Buddy") Carter violated 52 U.S.C.
20 § 30125(e)(1)(B) (formerly 2 U.S.C. § 441i(e)(A)) by raising impermissible funds
21 in connection with a non-federal election.
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⁵⁷ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage of the Enforcement Process, 72 Fed. Reg. 12,454-12,456 (Mar. 16, 2007).

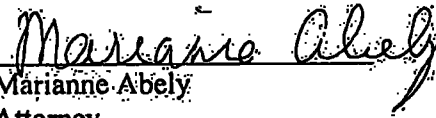
⁵⁸ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

5. Dismiss the allegation that Earl LeRoy ("Buddy") Carter violated 52 U.S.C. § 30125(e)(1)(A) and (formerly 2 U.S.C. § 441i(e)(1)(A)); and 11 C.F.R. § 110.3(d).
6. Approve the attached Factual and Legal Analysis.
7. Approve the appropriate letter.
8. Close the file.

10-30-14
Date


Kathleen Guith
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Peter G. Blumberg
Assistant General Counsel


Marianne Abely
Attorney